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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,394	11/12/2003	Kurt Kung	RANPP0316USB	6852
23908	7590	07/27/2005	EXAMINER	
RENNER OTTO BOISSELLE & SKLAR, LLP			DURAND, PAUL R	
1621 EUCLID AVENUE			ART UNIT	
NINETEENTH FLOOR			PAPER NUMBER	
CLEVELAND, OH 44115			3721	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,394

Applicant(s)

KUNG ET AL.

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-33, 35-37, 40-43 and 65-69 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 31-33, 35-37, 40-43 and 65-69 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 65-67 are rejected under 35 U.S.C. 102(b) as being anticipate by Johnson (US 3,509,797).

In regard to claim 65, Johnson discloses the invention as claimed including advancing a sheet of material 14 from a supply (not shown), shaping into dunnage while being advanced to form a three dimensional shaped piece of dunnage, moving a gripper in the form of teeth on meshing gears 84, which create a transfer region, where the dunnage is moved along the machine, the grippers in transverse opposition, laterally capturing the dunnage within an aperture created by the overlapping meshing of the gears (see entire document).

In regard to claims 66 and 67, Johnson discloses the invention as claimed including gathering the material by engaging the sheet material in an aperture formed between the teeth of the meshing gears, which engage opposite and lateral sides of the dunnage material.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 31,32 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Baldacci (US 4,968,291).

In regard to claim 31, Johnson discloses the invention substantially as claimed including advancing a sheet of material 14 from a supply (not shown), shaping into dunnage while being advanced to form a three dimensional shaped piece of dunnage, moving a gripper in the form of teeth on meshing gears 84, which create a transfer region, where the dunnage is moved along the machine, the grippers in transverse opposition, laterally capturing the dunnage within an aperture created by the overlapping meshing of the gears (see entire document). What Johnson does not disclose is the use of an aperture on the gripper to gather and move the product through the transfer region. However, Baldacci teaches that it is old and well known in the art to provide grippers in the form of gears 30a and 30b, with grippers in the form of teeth 64 apertures formed between projections 66, which capture and gather the dunnage as it is being moved through a transfer region where it is compressed and deformed for the purpose of forming dunnage material in a predetermined shape (see Fig.5-8, C4,L51-68 and C7,L5-16). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Johnson

with the gripping means as taught by Baldacci for the purpose of forming dunnage material.

In regard to claim 32, Johnson discloses the invention substantially as claimed including transversely opposed grippers in the form of teeth on meshing gears 84, which deform opposite sides of the dunnage as it is captured and moved through the transfer region created by the meshing of the gears.

In regard to claim 41, Johnson discloses the invention substantially as claimed including constriction member 12.

5. Claims 33,35-37,40,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson and Baldacci in view of Nilsson (US 4,938,739).

In regard to claims 33,35-37,42 and 43, the modified invention of Johnson discloses the invention substantially as claimed as applied to claim 31 above, except for the use of moving the grippers in a longitudinal direction through a transfer region. However, Nilsson teaches that it is old and well known in the art of deforming material to provide grippers in the form of folding elements 3, which are longitudinally offset and transversely arranged from each other and are moved through a transfer region in a paired, non circular relationship, moved towards each other in an upstream movement and closing on the material 4 in an upstream position and away from each other in a downstream movement, opening away from the material on a downstream position for the purpose of transferring and deforming a material (see Fig. 1-3 and C1,L53 – C2,L43). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Johnson

with the longitudinally traveling elements taught by Nilsson for the purpose of transferring and deforming a material.

In regard to claim 40, the modified invention of Johnson discloses the invention substantially as claimed including the movement of grippers in a non-circular longitudinal direction. What the modified invention of Mason does not specifically teach is the synchronization of the members as they are moved. However, the examiner takes Official Notice that it is old and well known in the art to synchronize the movement of the working members as they move through a working area for the purpose of increasing machine efficiency.

6. Claims 68 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Nilsson (US 4,938,739).

Johnson discloses the invention substantially as claimed except for the use of moving the grippers in a longitudinal direction through a transfer region. However, Nilsson teaches that it is old and well known in the art of deforming material to provide grippers in the form of folding elements 3, which are longitudinally offset and transversely arranged from each other and are moved through a transfer region in a paired, non circular relationship, moved towards each other in an upstream movement and closing on the material 4 in an upstream position and away from each other in a downstream movement, opening away from the material on a downstream position for the purpose of transferring and deforming a material (see Fig. 1-3 and C1,L53 – C2,L43). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Johnson with the

longitudinally traveling elements taught by Nilsson for the purpose of transferring and deforming a material.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

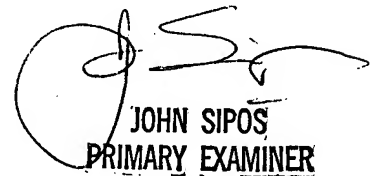
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN SIPOS
PRIMARY EXAMINER

Paul Durand
July 18, 2005